THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date: 08-11-2005

WRIT PETITION No.12792 OF 2005

BETWEEN:

Nayaki Srinivasulu.

…Petitioner.

And

The District Collector & District Magistrate, Mahabubnagar.

…Respondent.

ORDER:

It is stated that the petitioner is the Sarpanch of Vaddepally village and he is the holder of Arms licence No.3/91 and possessing two armed weapons viz .315 N.P.Bore Rifle and .325 Revolver (USA made).

The petitioner questions the proceedings No.H1/2222/05, dated 18-5-2005 of the District Collector, Mahaboobnagar, cancelling his Arms Licence on the ground that the said proceedings have been issued without any notice and without giving any reasonable opportunity. It is stated that even assuming that all the averments made in the said proceedings are true and correct, but still, the said proceedings suffers from legal infirmity of violating the principles of natural justice. It is further stated that Section 17(3)(b) of the Arms Act, 1959 does not provide any opportunity, but still, the principles of natural justice requires issue of a notice before cancelling the Arms Lincence.

Admittedly, a murder case in Crime No.13 of 2005 on the file of Shantinagar Police Station for the offences punishable under Sections 147,148, 302, 307, 109 read with Section 149 of the Indian Penal Code is pending against the petitioner. It is further stated that previously, a double murder case in Crime No.28 of 1994 of Alampur Police Station and the other case in Crime No.118 of Shantinagar Police Station were ended in acquittal.

Admittedly, appeal lies to the appellate authority under Section 18 of the Arms Act, 1959 against the impugned order passed by the District Collector. Under Section 17(3)(b); if the licencing authority deems it necessary for the security of public peace or for public safety, suspend or revoke the licence. In view of the fact that the petitioner earlier involved in three cases, no doubt they were ended in acquittal, but the latest murder case is pending. Therefore, I am of the opinion that in the absence of any specific right given to the petitioner giving opportunity before cancelling the licence, it cannot be said that the impugned order passed by the District Collector, Mahaboobnagar under Section 17(3)(b) of the Arms Act is illegal and against the principles of natural justice. Public peace and public safety is

paramount consideration than the individual right of hearing before cancelling the licence. It is the duty of the police to maintain peace and protection of public safety. As the petitioner has been involved in consecutive offences and in view of the pendency of the case in Crime No.13 of 2005 of Shantinagar Police Station for the offences punishable under Sections 147, 148, 302, 307, 109 r/w.149 of the Indian Penal Code, I am of the opinion that the proceedings of the District Collector, Mahaboobnagar cannot be interfered with on the ground that the principles of natural justice have been violated. There is an effective and alternative remedy available to the petitioner under Section 18 of the Arms Act, 1959 by way of appeal.

For the aforesaid reasons, the Writ Petition is dismissed. No costs.

V.ESWARAIAH, J

Date: 8-11-2005.

Shr.